

TAB 12D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

	x	
	:	
THE CITY OF HUNTINGTON,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01362
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

	x	
	:	
CABELL COUNTY COMMISSION,	:	Civil Action
	:	
Plaintiff,	:	No. 3:17-cv-01665
	:	
v.	:	
	:	
AMERISOURCEBERGEN DRUG	:	
CORPORATION, et al.,	:	
	:	
Defendants.	:	

BENCH TRIAL - VOLUME 24
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE
UNITED STATES DISTRICT COURT
IN CHARLESTON, WEST VIRGINIA

JUNE 10, 2021

1 of AmerisourceBergen's Orlando facility, has the DEA ever
2 shut down any other AmerisourceBergen distribution center?

3 **A.** To my knowledge, I don't -- I just don't know. I don't
4 have any knowledge of any other shutdown except for that
5 2007.

6 **Q.** Okay. And -- okay. Now, in 2007, later on in June,
7 AmerisourceBergen and the DEA entered into a Settlement
8 Agreement; is that correct?

9 **A.** That's correct.

10 **Q.** And AmerisourceBergen did not pay any fine in
11 connection with that Settlement Agreement; is that correct?

12 **A.** That is correct.

13 **Q.** In fact, to your knowledge, AmerisourceBergen has never
14 paid a fine to the DEA; is that correct?

15 **A.** As far as I know, we've never had a fine from
16 AmerisourceBergen.

17 **Q.** Now, let's take a look at the Settlement Agreement,
18 please, and this is AM-WV-00649.

19 MR. NICHOLAS: May I approach, Your Honor?

20 THE COURT: Yes, you may.

21 MR. NICHOLAS: And we can go right to Page 2 of
22 this agreement, Ritchie, if that's okay.

23 BY MR. NICHOLAS:

24 **Q.** And just quickly, we'll start with Paragraph 2.
25 Just show that bullet out.

1 There was no admission of liability in connection with
2 the Settlement Agreement on the part of AmerisourceBergen;
3 correct?

4 **A.** That's correct.

5 **Q.** Okay. Let's turn to Paragraph 1, subpart (b).

6 Now, this is -- in your testimony on direct, and also
7 on cross, Mr. Rannazzisi, you spoke a number of times about
8 ARCOS data and the fact that there was a time lag, in your
9 view, in terms of the DEA's ability to use ARCOS data
10 because the data was coming weeks or even a month to the DEA
11 after the sales had occurred. Do you remember that
12 testimony?

13 **A.** Yes.

14 **Q.** Okay. That's why I want to look at Paragraph 1(b). In
15 this agreement with AmerisourceBergen, AmerisourceBergen
16 agreed -- let's just look at the first sentence.

17 **A.** Yes.

18 **Q.** "AmerisourceBergen shall, (i), provide to DEA
19 headquarters within two business days following the date of
20 sale a report of all controlled substance transactions
21 through electronic data interchange in a format mutually and
22 reasonably agreed upon by the parties."

23 Do you see that?

24 **A.** Yes.

25 **Q.** Okay. And this information was -- this is not ARCOS

1 reporting that we're talking about now; right? This is
2 something in addition to ARCOS reporting; correct?

3 **A.** If I remember, that's correct, yes.

4 **Q.** And pursuant to this agreement, the DEA was receiving
5 this -- the information about every controlled substance
6 sale that AmerisourceBergen made within two days of the
7 sale; is that correct?

8 **A.** That's what it says, yes.

9 **Q.** Okay. Now, if you go down to the last sentence, it
10 says -- begins with the words "the obligations."

11 "The obligations contained in this paragraph shall
12 remain in full force and effect for a period of five years
13 from the effective date of this agreement, and thereafter
14 shall remain in full force and effect unless terminated and
15 revoked by either party upon 30 days written notice."

16 Do you see that?

17 **A.** Yes.

18 **Q.** The DEA never revoked this term, did it?

19 **A.** I don't believe so.

20 **Q.** And AmerisourceBergen never revoked this term, did it?

21 **A.** Not to my knowledge.

22 **Q.** So since the date of this Settlement Agreement in June
23 of 2007, the DE- -- AmerisourceBergen has been reporting
24 information about every one of its controlled substance
25 sales to the DEA within two days of the sales, of the sale;